

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

January 14, 2004

GSBCA 16283-RELO

In the Matter of ERIKA J. CHAMBERLIN

Erika J. Chamberlin, Bishop, CA, Claimant.

Tamara L. Hanan, Chief Accountant, Forest Service, Washington, DC, appearing for United States Department of Agriculture.

PARKER, Board Judge.

Erika J. Chamberlin asks the Board to order her agency, the Department of Agriculture's Forest Service, to reimburse her for certain relocation expenses not available to newly-hired employees. Although the agency originally authorized these expenses, it now maintains that the authorization was a mistake as Ms. Chamberlin was on a disability retirement at the time she was hired and, thus, should have been considered as a new appointee for relocation purposes. Ms. Chamberlin states that she never retired from the Government.

Although this Board is authorized to settle claims for relocation expenses incident to transfers of official duty station, 31 U.S.C. § 3702(a)(3) (2000) and Delegation from Acting Administrator of General Services (July 17, 1996), we have no authority to determine whether Ms. Chamberlin was retired at the time she was hired for her new position. That is a question for the agency and, possibly, the Office of Personnel Management, to answer.

We can say that, if Ms. Chamberlin was retired from the Federal Government at the time she was hired for the new position in June 2003, she should have been considered a new appointee. According to the Federal Travel Regulation (FTR), a "new appointee" is:

(b) An employee who is returning to the Government after a break in service (except an employee separated as a result of reduction in force or transfer of functions and is re-employed within one year after such action)[.]

41 CFR 302-3.1 (2003). Clearly, a retirement of any kind would qualify as a break in service.

By statute only certain, limited expenses may be authorized in connection with the relocation of a new hire or appointee. Agencies are authorized to reimburse the travel and transportation expenses of a new appointee and his or her immediate family, the transportation expenses of household goods and personal effects, and the cost of shipping a privately owned motor vehicle, from the place of residence at the time of selection to the initial duty station. 5 U.S.C. § 5723. New appointees, however, are not entitled to reimbursement of certain other expenses allowable to transferees, such as per diem for family members, cost of a house-hunting trip, expenses of subsistence while occupying temporary quarters, miscellaneous expense allowance, and residence sale and purchase expenses. Id. § 5724a.

Regulations implementing these statutes reflect the limitations on reimbursable travel and relocation expenses for new appointees, 41 CFR 302-3.2 through 3.5, and this Board has on many occasions denied the claims of new appointees based upon these various limitations. E.g., Louis L. Lawes, GSBICA 15577-RELO, 02-1 BCA ¶ 31,748; Wendy Castineira, GSBICA 15092-RELO, 00-1 BCA ¶ 30,740 (1999); Karen R. Brown, GSBICA 14871-RELO, 99-2 BCA ¶ 30,429.

Because statute and regulation expressly limit the expenses that may be reimbursed to a new appointee, Ms. Chamberlin's travel orders, which may have erroneously authorized such expenses, cannot create a right to reimbursement in excess of the statutory and regulatory entitlements. Lawes; Castineira. Thus, if the Forest Service is correct that Ms. Chamberlin was in a retirement status at the time she was hired, her claim must be denied.

Conversely, if Ms. Chamberlin is correct that she did not have a break in federal service, she would be entitled to the full range of benefits authorized by the agency.

ROBERT W. PARKER
Board Judge